FILED
SEP 29
CHARLES ELMO

SUPREME COURT OF THE UNITED STATES

October Term, 1927.

No. 156.

L. M. Willcuts, Collector of Internal Revenue for the District of Minnesota, Petitioner.

vs.

Milton Dairy Company.

On Writ of Certiorari to the United States Circuit Court of Appeals for the Eighth Circuit.

BRIEF ON BEHALF OF RESPONDENT.

HAYDN S. COLE,
Attorney for Respondent.

INDEX.

	Page.
The question	1
The statute	2
Statement	2
Summary of Argument	3
Argument:	
Undivided profits having been determined as of annual accounting periods, the profits so ascertained having been taxed under the Revenue Act, and left undistributed in the business, there being no subsequent operating deficit, are undivided profits under Sec. 326 (a) 3, and need not be applied in reduction of an operating deficit incurred prior to the enactment of the excess profits tax law	4

CITATIONS.

Cases:	
Edwards v. Douglas, 269 U. S. 204	4
Gould Coupler Co., Appeal of, 5 B. T. A. 499	5
Gould v. Gould, 245 U. S. 151	8
Insurance Company of North America v. McCoach, 218 Fed. 905	5
LaBelle Iron Works v. United States, 256 U. S. 377	8
Leather Manufacturers' National Bank v. Treat, 116 Fed. 774	5
Valdosta Grocery Co., Appeal of, 2 B. T. A. 727	5
Statutes:	
Revenue Act of 1918, c. 18, Sec. 326 (a)	2
Revenue Act of 1918, c. 18, Sec. 212 (b)	6